

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.655/M/2024
Assessment Year: 2017-18**

Mr. Rajesh Lachhmandas Masand, 604, Amber Apartment, Station Road, Ulhasnagar, Maharashtra- 421 003 PAN: AKXPM1116C	Vs.	Commissioner of Income Tax (Appeals), Income Tax Office, 2 nd Floor, Mohan Plaza, Wayle Nagar, Kalyan, Thane, Maharashtra - 421 301
(Appellant)		(Respondent)

Present for:

Assessee by : Mr. M. Subramanian, A.R.
Revenue by : Shri R.R. Makwana, Sr. DR.

Date of Hearing : 13 . 08 . 2024
Date of Pronouncement : . 2024

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 18.12.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. In this case, the Assessing Officer (AO) vide assessment order dated 18.12.2019 u/s 144 of the Act has made the addition of Rs.11,81,920/- on account of unexplained money u/s 69A of the Act on account of unexplained cash deposit has been made. The Assessee, being aggrieved, challenged the said addition

before the Ld. Commissioner, however, in spite of issuing several hearing notices the Assessee except requesting for adjournment on 31.10.2022 and 26.09.2023 made no compliance. Thereafter, a last and final opportunity notice was issued to the Assessee on 22.11.2023 which also remained uncomplied with till the passing of the order i.e. on 18.12.2023.

3. If we consider the conduct of the Assessee then it appears to be negligent and non-complied, however, the Assessee before us has produced one acknowledgment whereby he tried to demonstrate that in response to the last notice dated 22.11.2023 the Assessee has sought for adjournment of hearing, however, the same was not considered by the Ld. Commissioner.

4. Considering the peculiar facts and circumstances of the case and the fact that the Ld. Commissioner in the absence of relevant submissions and documents was unable to decide the appeal filed by the Assessee in its right perspective of the case and for the just and proper decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh on merits, suffice to say by affording reasonable opportunity to the Assessee to substantiate her claim before the Ld. Commissioner.

5. We also direct the Assessee to cooperate with the appellate proceedings and to file the relevant submissions/documents which would be essential and required by the Ld. Commissioner for proper adjudication of the case. We clarify that in case of further default the Assessee shall not be entitled for any leniency. Hence, the case is remanded accordingly.

6. In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open court on .2024.

**(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER**

**(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.

		Date	Initial	
WHETHER DICTATION PAD ENCLOSED WITH THE FILE : Yes/No (as the order has been typed with the help of manuscript)				
1.	Draft dictated on	13.08.24		Sr.PS
2.	Draft placed before author	16.08.24		Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS
6.	Date of pronouncement			Sr.PS
7.	File sent to the Bench Clerk			Sr.PS
8.	Date on which file goes to the Head Clerk			
9.	Date of dispatch of Order			